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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,758	04/21/2004	Thomas Edward Kreitler	65961-0136	5331
28886	7590	03/18/2005	EXAMINER	
CLARK HILL, P.C. 500 WOODWARD AVENUE, SUITE 3500 DETROIT, MI 48226			EDELL, JOSEPH F	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/828,758	KREITLER, THOMAS EDWARD	
	Examiner Joseph F Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 April 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-11 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 21 April 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>04/21/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 3-11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,568,123 to Yasui et al.

Yasui et al. discloses a seat assembly that includes all the limitations recited in claims 1 and 3-11. Yasui et al. shows a seat assembly having a seat cushion (column 1, lines 7-8), a seat back (Fig. 5) having top and bottom portions, a seat frame B (Fig. 5), a head restraint (Fig. 1) mounted to the seat frame by posts a (Fig. 1) and capable of moving between a deployed position and a retracted position, a control mechanism (Fig. 1) disposed within the head restraint and including a housing b₁,b₅ (Fig. 1) and an actuation device 10 (Fig. 1) pivotally mounted to the housing, an actuation lever 14 (Fig. 1) of the actuation device, and a shaft 22 (Fig. 2) of the actuation device with a flat (Fig. 2) engaging one of plurality of notches a₁ (Fig. 1) in the posts to prevent movement of the head restraint wherein the actuation device allows the head restraint to move to and from the retracted and deployed positions when the flat is parallel to the a vertical axis of the posts (see Fig. 4) and the head restraint is placed in a retracted position by

pushing down on the head restraint until the flat engages one of the plurality of notches in the posts.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,110,185 to Schmutz et al.

Schmutz et al. discloses a seat assembly that includes all the limitations recited in claims 1 and 2. Schmutz et al. shows a seat assembly having a seat cushion (column 3, line 17), a seat back 1 (Fig. 1) having top and bottom portions, a seat frame (column 3, line 44), a head restraint 2 (Fig. 1) mounted to the seat frame by posts 4 (Fig. 2) and capable of moving between a deployed position and a retracted position, and a control mechanism (Fig. 2) disposed within the head restraint and including a biasing device 31 (Fig. 2) disposed between the posts biasing the head restraint toward the deployed position.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to seat assemblies:

U.S. Pat. No. 3,186,763 to Ferrara

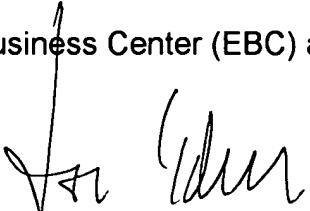
U.S. Pat. No. 4,483,565 to Terui et al.

U.S. Pat. No. 5,199,765 to Garmendia et al. U.S. Pat. No. 5,711,579 to Albrecht

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joe Edell
March 14, 2005